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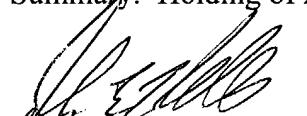
In re Application of : DECISION ON PETITION
Scott R. Watterson et al : TO WITHDRAW
Serial No. : 09/943,741 : HOLDING OF
Filed : August 30, 2001 : ABANDONMENT
For : Elliptical Exercise Device with Leaf Spring Supports :

This is a decision on petitioner's request filed October 22, 2004, to review the holding of abandonment mailed October 12, 2004, for failure to pay the issue fee as required in the Notice of Allowance and Fee(s) Due mailed June 2, 2004. The basis for the request is that applicant did not receive the communication mailed June 2, 2004. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed October 22, 2004 includes all the above elements. Further, an inspection of the file reveals that the Office action in question was returned undelivered. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the mailing of a new Notice of Allowance and Fee(s) Due with a copy of the Notice of Allowability that was mailed June 2, 2004.

Summary: Holding of Abandonment Withdrawn.


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